IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 5854 of 2006(V)

PETITIONERS:
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1. **C.N.PRADEEPKUMAR,**
   S/O.NARAYANAN EZHUTHASSAN,
   CHEMMANGATTUVALAPPIL HOUSE, MUTHUVARA DESOM,
   PUZHAKKAL VILLAGE, TRISSUR TALUK.

2. **M.S.BALAKRISHNAN,**
   S/O.SANKARANKUTTY EZHUTHASSAN,
   MECHERIVALAPPIL HOUSE, CHOORAKKATTUKARA DESOM,
   PUZHAKKAL VILLAGE, THRISSUR TALUK.

BY ADV. SRI.JIJO PAUL

RESPONDENT:

THE NATIONAL UNION CHIT FUND,
(REGD), PUZHAKKAL, PUZHAKKAL VILLAGE AND DESOM,
THRISSUR TALUK.

BY ADV. SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.5854/2006 V

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE PETITION IN E.P.NO.1049/2004 IN O.S.NO.909/2001 BEFORE THE MUNSIFF COURT, THRISSUR FILED BY THE RESPONDENT DTD. 11/06/2004.**

EXT.P2: **COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONERS IN E.P.NO.1049/2004 IN O.S.NO.909/2001 BEFORE THE MUNSIFF COURT, THRISSUR DTD. 4/12/2004.**

EXT.P3: **COPY OF THE ORDER DTD. 18/01/2006 IN E.P.NO.1049/2004 IN O.S.NO.909/2001 OF the MUNSIFF COURT, THRISSUR.**

EXT.P4: **COPY OF THE SALARY CERTIFICATE DTD. 7/11/2005 ISSUED BY THE OFFICE OF THE ASSISTANT INDUSTRIES OFFICER, TALUK INDUSTRIES OFFICE, THRISSUR.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 5854 of 2006

Dated this the 5th day of July, 2007

JUDGMENT

The petitioners, who are judgment debtors in a money decree passed against them , is aggrieved by Ext.P3 order by which Execution Court has ordered an attachment of their salaries for recovery of the decree debt. Ext.P4 is a salary certificate issued in respect of the first petitioner. At the time of admission of this writ petition, this court, on considering Ext.P4 and the submissions of the learned counsel for the petitioners, found that the attachable portion of the salary of the first petitioner is Rs.3,000/- and that of the second petitioner is Rs.3,500/- and granted stay regarding Ext.P3 subject to the condition that the petitioners pay cash at that rate. It is reported by Sri.Vinod Madhavan, the learned counsel for the respondent that the petitioners did not comply with the above condition as a result of which the impugned order became operative and

that the salaries of both the petitioners are being attached on the basis of Ext.P4.

2. I do not think that this court will be justified in exercising its discretion in favour of somebody who does not comply with the condition imposed for granting interim orders. I refuse to exercise the extraordinary jurisdiction of this court and close the writ petition on the basis that the impugned order has operated.

PIUS C. KURIAKOSE,
JUDGE.

dpk